

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

ORIGINAL

In the Matter of: )

Modification of Section 22.1109 )  
of the Commission's Rules )  
Containing Reference Coordinates )  
for Air-to-Ground Telephone )  
Ground Stations )

RM-8378

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

To: The Commission

**THIRD SUPPLEMENT TO PETITION FOR RULEMAKING**

Claircom Communications Group, L.P. ("Claircom"),  
GTE Airfone Incorporated ("GTE Airfone"), and In-Flight Phone  
Corporation ("In-Flight") (collectively, "Petitioners"), by their  
attorneys, hereby jointly submit a further supplement to their  
joint Petition for Rulemaking ("Petition"), filed on July 22,  
1993. This Petition and two supplements filed on October 21,  
1993, and December 22, 1993, requested the Federal Communications  
Commission ("FCC" or "Commission") to initiate a rulemaking  
proceeding to amend the geographical coordinates of ten ATG  
telephone ground station locations set out in Section 22.1109 of  
the Commission's Rules, 47 C.F.R. § 22.1109 (1993).<sup>1/</sup>

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<sup>1/</sup> The Petition and the two earlier supplements were signed by  
all existing air-to-ground ("ATG") telephone service licensees,  
which, in addition to the three parties to the instant  
supplement, included Mobile Telecommunication Technologies Corp.  
("Mtel"), American Skycell Corporation ("Skycell"), and Jet-Tel  
Group, L.P. ("Jet-Tel"). However, the construction permits of  
Mtel and Skycell, which failed to construct 25 ground stations  
within three years of the grant of their licenses, as required by  
Section 22.43(e) of the Commission's Rules, 47 C.F.R. § 22.43(e),  
have expired automatically. See Public Notice Report No. PMS-94-

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Petitioners respectfully request that, in addition to the reference coordinates for the ten sites named in their original Petition and two previous supplements, Section 22.1109 be amended to modify the coordinates for Pataskala, Ohio.2/

Currently, the reference coordinates for Pataskala listed in Section 22.1109 are 40° 04' 38 N. latitude and 82° 41' 57" W. longitude. However, because of restrictive zoning and permitting requirements in the area contained within the search ring of these coordinates, it is not now possible for Claircom to obtain the local governmental approval necessary to construct a new tower or locate a new ground station on an existing tower anywhere in this area. Thus, it presently is not feasible to build a new ground station at Pataskala within the search ring

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1/ (...continued)  
23-A (March 2, 1994). Thus, having surrendered their authorizations to the Commission, Mtel and Skycell are no longer parties with an interest in this proceeding. Jet-Tel also failed to meet the construction requirements of Section 22.43(e), and its authorization therefore also is subject to automatic cancellation. Jet-Tel, which has requested a waiver of Section 22.43(e), has advised Claircom that it will not participate in the instant supplement.

2/ The Petition requested the Commission to change the coordinates of Kenner, Louisiana; Nashville, Tennessee; Bedford, Texas; Kansas City, Missouri; San Jose, California; Cordova, Alaska; and Sitka, Alaska. The initial supplement, filed on October 21, 1993, requested the Commission to change the coordinates of Ketchikan, Alaska, and Yakutat, Alaska. The second supplement, filed on December 22, 1993, requested the Commission to change the coordinates of Austin, Texas, and modify the channel block for Yakutat, Alaska.

established by the current rule. Given these circumstances, Petitioners request that the reference coordinates listed in Section 22.1109 for Pataskala, Ohio, be changed to 40° 04' 05" N. latitude and 82° 42' 00" W. longitude.

Claircom has made diligent efforts over the past two years to obtain the necessary permission to construct a new ground station within the search ring established by the current rule, which lies within Jersey Township in Licking County, Ohio. The area of the search ring is zoned for agriculture, and ATG ground stations are not considered a permitted use. Claircom applied to Jersey Township for a special use permit in May 1992. However, after a hearing, its application was denied in July 1992 on the grounds that the community would not benefit from the use and Claircom is not a public utility, which could qualify for a special use. Claircom appealed the determination that it was not a public utility and applied to the Board of Zoning Appeal of Jersey Township for a conditional use permit. However, both the appeal and the conditional use permit application were denied. Thus, the only site available to Claircom for a ground station is located 0.3 miles outside the existing search ring, on a tower that has been exempted from current zoning restrictions through a grandfather clause.

The proposed amendment of the Pataskala coordinates is in the public interest because it will enable all ATG carriers,

including Claircom, to operate ground stations within the search ring of the coordinates set forth in the Commission's Rules. As stated above, under current conditions, no new service can be offered to the public.

The requested modification of Section 22.1109 also is fully consistent with the one mile collocation provision of the rule because any ground station operated by a Petitioner at Pataskala will be located within one mile of the proposed new reference coordinates. GTE Airfone's existing ground station is 0.6 miles from the proposed coordinates, In-Flight's existing ground station is 0.4 miles from the proposed coordinates, and Claircom's planned ground station will be 0.7 miles from the proposed coordinates. Thus, the proposed amendment serves the Commission's goal of preventing inter-carrier interference caused by Doppler frequency shifts that could result from excess ground station separation. Moreover, both GTE Airfone and In-Flight support the proposed change.3/

For the foregoing reasons, Petitioners respectfully request the Commission to adopt a Notice of Proposed Rule Making consistent with the recommendations in their Petition of July 22,

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3/ If the Commission grants Jet-Tel an extension of its construction permit, it will not be harmed by the requested amendment because it has not begun construction of a ground station at Pataskala. Indeed, if Jet-Tel obtains an extension of its construction permit, the requested amendment will enable it to locate a ground station within the search ring of the coordinates set forth in the Commission's Rules, which it otherwise would not be able to do.

1993, as supplemented on October 21, 1993, and December 22, 1993,  
and as further supplemented herein.

Respectfully submitted,

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July 19, 1994

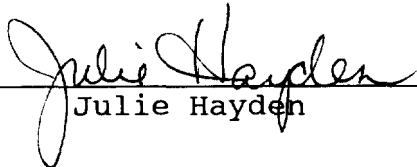
CERTIFICATE OF SERVICE

I, Julie Hayden, a secretary in the law firm of Akin, Gump, Strauss, Hauer & Feld, L.L.P., certify that copies of the foregoing THIRD SUPPLEMENT TO PETITION FOR RULEMAKING, were hand delivered, on this 19th day of July, 1994, to the following:

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